

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
Policy No. P2-LWR- -

**AMENDMENT 13A**

The United States of America (hereinafter, the Insurer), represented by the Administrator of the Federal Aviation Administration, acting for the Secretary of Transportation (hereinafter the Administrator), hereby amends the coverage provided under the above-referenced Policy of Insurance to \_\_\_\_\_

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(hereinafter the Insured), in accordance with applicable provisions of law and subject to all limitations thereof, and upon the payment of a premium, pursuant to the provisions of chapter 443 of title 49 of the United States Code (49 U.S.C. §§ 44301 *et seq.*) (hereinafter, chapter 443), by replacing the Insured's Third Party War Risk Liability Insurance policy or War Risk Insurance Policy which terminates at 23:59 GMT on February 8, 2004, with the attached War Risk Insurance Policy consisting of the following three parts:

- A. Part I: Hull Insurance INTENTIONALLY OMITTED
- B. Part II: Comprehensive Liability Insurance INTENTIONALLY OMITTED
- C. Part III: Third Party War Risk Liability.

UNITED STATES OF AMERICA  
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Policy No. P2-LWR- -

**WAR RISK INSURANCE ISSUED PURSUANT TO  
CHAPTER 443 OF TITLE 49 OF THE UNITED STATES CODE**

**DESCRIPTION OF COVERAGE UNDER THIS CONTRACT OF INSURANCE  
AND THOSE TERMS, CONDITIONS AND DEFINITIONS  
APPLICABLE TO ALL PARTS OF THIS CONTRACT OF INSURANCE**

I. COVERAGE

The United States of America (hereinafter, the Insurer), represented by the Administrator of the Federal Aviation Administration, acting for the Secretary of Transportation (hereinafter the Administrator or FAA), shall provide by this War Risk Insurance Policy to

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(hereinafter the Insured), in accordance with applicable provisions of law and subject to all limitations thereof, and upon the payment of premiums, pursuant to the provisions of chapter 443 of title 49 of the United States Code (49 U.S.C. §§ 44301 through 44310 et seq.) (hereinafter, chapter 443) the following Third Party War Risk Liability contract of insurance only:

- A. Part I: Hull Insurance INTENTIONALLY OMITTED
- B. Part II: Comprehensive Liability Insurance INTENTIONALLY OMITTED
- C. Part III: Third Party War Risk Liability.

II. TERMS AND CONDITIONS

A. The sections in this part shall apply only to Part III (Third Party Insurance) of this Contract of Insurance, and shall apply neither to Part I (Hull Insurance) or Part II (Comprehensive Insurance), which are not parts of this contract.

B. INTENTIONALLY OMITTED

C. The pertinent terms and conditions set forth in Part III of this contract of insurance shall be independent of any reference to Parts I and II, and such references shall not be construed to affect any provision of Part III. The aggregate amount of insurance provided under Part III of this War Risk Insurance Policy shall not exceed US\$\_\_\_\_\_ of liability per occurrence/per aircraft incurred by the Insured for the higher of third party losses.

D. The premiums for Part III of this War Risk Insurance Policy shall be separately determined, provided, however, that the total premium paid by the Insured for Part III of this War Risk Insurance Policy shall not exceed twice the premium (annual and pro rata) paid by the Insured for Third Party War Risk Liability Insurance issued by the Administrator as of June 19, 2002. The Insured shall provide any and all records and information requested by the Administrator for the purpose of calculating the premium for this War Risk Insurance Policy. Failure to provide such records and information in a reasonable time when requested shall void this War Risk Insurance Policy.

E. This Policy of Insurance may be amended by the Administrator or terminated by either Party, and shall be either amended or terminated through the occurrence of any condition under chapter 443 that would affect the operation of this agreement.

F. Coverage of any aircraft listed as insured under this Policy of Insurance shall be held in abeyance if that aircraft is also under charter by an agency of the United States or under the control of the Department of Defense during activation of the Civil Reserve Air Fleet (CRAF) pursuant to 49 U.S.C. § 44305 of chapter 443 while non-premium insurance is available. Coverage in full under this Policy of Insurance for such aircraft shall be restored when the aircraft is released upon completion of charter operations under 49 U.S.C. § 44305.

G. Coverage under this Policy of Insurance shall not be applicable to aircraft operations that are intentionally conducted into or within geographic areas where such operations are prohibited by a FAA Special Federal Aviation Regulations (SFAR), or the air carriers operation specifications issued in compliance with Title 14 of the Code of Federal Regulations, Part 119, unless special permission for such operations is granted by the FAA. In addition to FAA permission, aircraft operations to, from, or transiting Iraq must obtain approval of the Regional Air Movement Control Center (RAMCC). Further operations to and from Iraq must comply with all pertinent export licensing requirements of the Department of the Treasury and the requirements of the Department of Transportation.

H. The Insured should notify the Insurer, in writing, of a pending Material Change which will affect the operational control of aircraft. Notification of the actual Material Change shall occur no later than 48 hours after implementation. Notification by electronic mail will satisfy the reporting requirement so long as the Insured supplies the Insurer with a paper copy of this notice as soon as practical thereafter.

### III. RECONCILIATION OF ACTUAL AND ESTIMATED PREMIUMS

A. Within 90 days of the effective date of this Policy of Insurance the Insured shall calculate and reconcile the difference between the actual premium owed with the estimated premium previously paid as the deposit premium for this Policy of Insurance for two periods; the first being the period between June 18, 2002 and December 15, 2002, and the second between December 16, 2002 and February 8, 2004. Settlement shall be made:

1. If the premium difference is greater than the deposit premium paid by the Insured, the Insured shall pay the premium difference to the Insurer.

2. If the premium difference is less than the deposit premium paid by the Insured, the Insured shall seek a refund of the premium difference from the Insurer or request a credit against further policy premiums.

B. Within 90 days of the expiration or termination of this Policy of Insurance, the insured shall reconcile and correct the actual premium owed with the deposit premium estimated for the premium difference

1. If the premium difference is greater than the deposit premium paid by the Insured, the Insured shall pay the premium difference to the Insurer.

2. If the premium difference is less than the deposit premium paid by the Insured, the Insured shall seek a refund of the premium difference from the Insurer.

#### IV. ACTIVATION, AMENDMENT AND TERMINATION

A. Insurance coverage shall commence upon activation by the FAA, and this Policy of Insurance shall remain in effect until amended by the Administrator or terminated by either party.

B. This Policy of Insurance shall automatically terminate:

1. Upon effective expiration of the authority of the Secretary of Transportation, subject to retroactive reauthorization, to provide insurance pursuant to chapter 443 of Title 49 of the United States Code; or

2. Seven (7) days after notice of termination due to subsequent legislation or for failure to pay premiums has been directly communicated to the Insured, in writing, by the Administrator. A confirmation copy of this notice will be sent thereafter by facsimile or other additional means of communication or delivery to the Insured.

C. Termination of the entirety of this of Policy of Insurance shall terminate each and every Part of this War Risk Insurance Policy.

D. The Insurer has the right, at its sole discretion, to terminate this Contract of Insurance as of the date of a Material Change in the status of the Insured, if such Material Change to the Insured's status results in a condition which exceeds the statutory authority of the Insurer to provide insurance.

E. The Administrator may terminate this Policy of Insurance for default if the Insured fails to pay the premium. In the event of default, the Insurer will forward a Notice of Default to the Insured. The Insured agrees to:

1. calculate the actual premium for all operations conducted by the Insured between acceptance of the Insured's application for insurance and the date and time of termination for default, and submit the calculation for the actual premium to the Insurer within thirty (30) days of the date on the Notice of Default; and

2. pay the actual premium for all operations conducted by the Insured between acceptance of the Insured's application and the date and time of termination for default.

3. produce a list of all Other Insured Parties in accordance with paragraph VIII. A. of this part of the Policy of Insurance.

F. The Insured shall provide any and all records and information requested by the Administrator, including (but not limited to) copies of its commercial aviation liability and hull insurance policies applicable to the period in question and all schedules and attachments thereto, for the purpose of verifying the terms and scope of applicable commercial insurance coverage. The Insurer will maintain such Insured-provided commercial aviation liability and hull insurance information as confidential. Failure to provide such records and information in a reasonable time when requested shall be grounds for termination of this Policy of Insurance.

## V. DEFINITIONS

A. "Air Transportation Business" means:

1. the ownership, maintenance, sale or use of aircraft by an air operator, or
2. operations necessary or related to the providing of air transportation, or
3. operations, including maintenance and supply of goods or services, provided for by others which are necessary or related to the provision of air transportation by the Insured, or others approved by the Insured, or
4. all non-revenue operations involving the operation of aircraft by the Insured, including company sponsored activities, events, promotions, award programs and other events or happenings designed to further the Air Transportation Business, image and good will of the Insured.

B. "Bodily Injury " means Bodily Injury sustained by any person caused by an Occurrence during the policy period, including sickness, disease, mental anguish, shock, fright, disability or death at any time resulting therefrom or resulting from the apprehension thereof.

C. "Personal Injury" means:

1. false arrest or imprisonment, delay, detention, malicious prosecution, discrimination, wrongful entry to or eviction from any Premises or Aircraft or vehicle or other invasion of the right of private occupancy; and
2. incidental medical malpractice, error or mistake by any physician, surgeon, nurse, medical technician or other person performing medical services on behalf of the Named Insured in the provision of immediate medical relief occasioned by a War Risk Occurrence.

D. "Policy Territory/Geographical Limits" means anywhere in the world.

E. "Property Damage" means (1) injury to or destruction of tangible property and (2) under Part III Third Party coverage, loss of use of tangible property, which has been physically injured or destroyed, provided such loss of use is caused by a War Risk Occurrence.

F. "War Risk Occurrences" (also "Occurrences" or "Occurrence") are defined as any loss or damage directly or indirectly arising from, or occasioned by, or happening through or in consequence of:

1. War (whether declared or not) (including war between Great Powers), invasion, acts of foreign enemies, warlike hostilities, civil war, rebellion, revolution, insurrection, martial law, exercise of military or usurped power, or any attempt at usurpation of power.
2. Any hostile detonation of any weapon of war, including any employing atomic or nuclear fission and/or fusion or other like reaction of radioactive force or matter.
3. Strikes, riots, civil commotions, or labor disturbances.
4. Any act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes and whether the loss or damage resulting therefrom is accidental or intentional, except for ransom or extortion demands. Payments in response to ransom or extortion demands are hereby specifically denied under this policy.
5. Any malicious act or act of sabotage, vandalism or other act intended to cause loss or damage.
6. Confiscation, nationalization, seizure, restraint, detention, appropriation, requisition for title or use by or under the order of any foreign government (whether civil or military or de facto) or foreign public or local authority. This policy will not cover any lawful government seizures of aircraft or spare parts that are the result of outstanding legal debts, taxes, fines, or unlawful acts

committed with the knowledge or consent of airline officials or the unlawful operation of such aircraft by the named insured.

7. Hijacking or any unlawful seizure or wrongful exercise of control of the aircraft or crew (including any attempt at such seizure or control) made by any person or persons onboard the aircraft or otherwise, acting without the consent of the Insured.

8. The discharge or detonation of any weapon or explosive device while on an aircraft covered by this Policy of Insurance.

G. "Passenger," when mentioned under any liability provision of this Policy of Insurance, means a person who enters into a contract of transportation or other agreement by which the person is to be transported by the Insured, and who has acted upon that contract or other agreement by checking in for transportation and receiving a boarding pass or other means of identification for that transportation, whose subsequent movements are made in direct response to the places, times and means of transportation that are directly involved with, made as a consequence of, and thus governed by, the air operations conducted by the Insured. A person shall cease to be a passenger when that person's movements are no longer governed by the air operations conducted by the Insured pursuant to the contract of transportation or other agreement with the Insured. A person who is identified, at any time and in any way, as a knowing participant in the commission of a War Risk Occurrence shall not be considered as a passenger for the purposes of this Contract of Insurance.

H. "Additional Insureds" are persons with whom the insured has entered into contracts of indemnity for coverage under this policy of insurance.

I. "Material Change" is any substantial change in corporate ownership, financial or operational structure which affects the operation of insured aircraft, the operational control of insured aircraft by the Insured, or a change in the aircraft operated by the Insured.

## VI. COVERAGE FOR AIRCRAFT OUTSIDE THE CONTROL OF THE INSURED

This Policy, subject to the exclusions contained herein, covers claims arising while an aircraft under the operational control of the Insured is outside the control of the Insured by reason of any of the above perils. The aircraft shall be deemed to have been restored to the control of the Insured on the safe return of the aircraft to the Insured at an airfield which is entirely suitable for the operation of the aircraft. Such safe return shall require that the aircraft be parked with engines shut down with the crew under no duress. The Insurer waives no rights of subrogation or indemnification by virtue of this clause.

## VII. NOTIFICATION TO THE FAA

In all instances, notification to the FAA from the Insured shall be made to the following:

Office of Aviation Policy and Plans, APO-1  
Federal Aviation Administration  
800 Independence Ave., SW  
Washington, DC 20591  
FAX: 202-267-3278

Office of Aviation Policy and Plans  
Insurance Staff APO-3  
Federal Aviation Administration  
800 Independence Ave., SW  
Washington, DC 20591  
FAX: 202-267-3324

### VIII. OTHER INSURED PARTIES

A. Definition and Identification of Other Insured Parties. For purposes of Parts I, II and III of this Policy of Insurance, the term "Insured" shall include Other Insured Parties, which are legal or private persons (1) that are aircraft lessors, lenders, lienholders, or other persons to the extent of their ownership or interest in an aircraft operated by

\_\_\_\_\_ (hereinafter, Other Insured Parties)  
and (2) that are listed in the commercial insurance policy of

\_\_\_\_\_ provided,  
however, that \_\_\_\_\_

\_\_\_\_\_ shall certify in writing that its agreements with the Other Insured Parties require the inclusion of the Other Insured Parties in the war risk insurance coverage obtained by \_\_\_\_\_

\_\_\_\_\_. Upon request by the Insurer, \_\_\_\_\_ shall, within ten (10) working days, identify in writing all such Other Insured Parties to the Insurer via the FAA.

B. Warranties Applicable to Other Insured Parties. The following warranties shall apply to Other Insured Parties identified under part A of this Article VIII:

1. Respecting equipment loss coverage under Part I to this Policy of Insurance, the Other Insured Parties shall be named as loss payees as their respective interests may appear;

2. Provisions of this Policy of Insurance, including this Article VIII, shall apply worldwide and have no territorial restrictions or limitations;

3. Respecting the interests of the Other Insured Parties in this Policy of Insurance, the insurance shall not be invalidated or impaired by any act or omission (including misrepresentation and nondisclosure) by the Insured or any other person (including use for illegal purposes of any Insured Equipment), and shall insure the Other Insured Parties regardless of any breach or violation of any representation, warranty, declaration, term, or condition contained in such policies by the Insured or any other Person;
4. If the Insurer terminates this Policy of Insurance for any reason whatsoever, or if it is allowed to lapse for nonpayment of premium, or if any material change is made in the Policy of Insurance which adversely affects the interest of any of the Other Insured Parties, such cancellation, lapse, or change shall not be effective as to the Other Insured Parties for seven (7) days after receipt by the Other Insured Parties of written notice from the Insured of such cancellation, lapse or change, or publication of notice of cancellation by the Insurer in the Federal Register;
5. The Insurer waives any rights of subrogation or any right of setoff (including for unpaid premiums), recoupment, counterclaim, or other deduction, whether by attachment or otherwise, against each Other Insured Party;
6. Insurance proceeds from this Policy of Insurance shall be primary without right of contribution from any other insurance that may be available to any Other Insured Parties;
7. All of the liability insurance provisions of the Policy of Insurance, except the limits of liability, shall operate in all respects as if a separate policy had been issued covering each Other Insured Party;
8. None of the Other Insured Parties shall be liable for any insurance premium; and
9. The Policy of Insurance contains a 50/50 Clause per Lloyd's Aviation Underwriters' Association Standard Policy Form AVS 103, or its equivalent.

#### IX. SUPPLEMENTAL COVERAGES.

This Policy of Insurance shall pay, within the Limits of Liability stated elsewhere herein, the following expenses incurred by the Insured, provided, however, with respect to paragraphs A, B, C, D and E below, the Insurer's Limit of Liability for A, B, C, D and E combined shall not exceed the greater of \$25,000 per passenger or \$5,000,000 for any one Aircraft/Occurrence.

##### A. INTENTIONALLY OMITTED\

B. Reasonable search and rescue operations for an aircraft insured under this Policy of Insurance which is determined to be missing and unreported after the computed maximum endurance of the flight has been exceeded.

C. Any attempted or actual removal of wreckage of an Aircraft insured under this Policy of Insurance.

D. The foaming of a runway to prevent or mitigate possible loss or damage.

E. Any public inquiry or inquiry by the Federal Aviation Administration, National Transportation Safety Board or similar governmental agency having investigative authority into an Occurrence involving an Aircraft insured under this Policy of Insurance that the Insured is called upon to pay.

F. INTENTIONALLY OMITTED

X. ALLOCATION OF COSTS BETWEEN THE INSURER AND OTHER INSURERS WITH WHOM THE INSURED HAS A POLICY OF INSURANCE - "50/50" CLAUSE (AVS 103 or its equivalent)

If, in addition to this Policy of Insurance which, *inter alia*, covers the risks excluded by AVN48B/the Common North American Airline War Exclusion Clause, the Insured has another policy of insurance in full force and effect that has a "Hull All Risks" and/or a "Liability All Risks" policy which, *inter alia*, contains the War Hi-Jacking and Other Perils Exclusion Clause (AVN 48B) and/or the Common North American Airline War Exclusion Clause, the insurer agrees that in the event of an Occurrence involving loss or damage to an aircraft on the schedule of aircraft forming part of this Policy of Insurance and where agreement is reached between the "Hull All Risks" and/or the "Liability All Risks" insurers and the Administrator that the Insured has a valid claim under one or the other policy where nevertheless it cannot be resolved within twenty-one (21) days from the date of the Occurrence as to which policy is liable, each of the aforementioned groups of insurers agree, without prejudice to their liability, to advance to the insured fifty percent (50%) of such amount as may be mutually agreed between them until such time as final settlement of the claim is agreed, provided that:

A. the "Hull All Risks" and/or the "Liability All Risks" policies, and this Policy of Insurance are identically endorsed with this provisional claims settlement clause;

A. within twelve (12) months of the advance being made all insurers specified in paragraph A above agree to refer the matter to arbitration in the United States in accordance with the Statutory provision for arbitration for the time being in force;

B. once the arbitration decision has been conveyed to the parties concerned, the "All Risks" insurers or the Insurer, as the case may be, shall repay the amount advanced by the other group of insurers together with interest for the period concerned, which is to be calculated using the London Clearing Banks' Base Rate;

D. if the "Hull All Risks" and/or the "Liability All Risks" policies and this Policy of Insurance contain differing amounts payable, the advance will not exceed the lesser of the amounts involved. In the event of Co-insurance or risks involving uninsured proportion(s), the appropriate adjustment will be made.

#### XI. WARRANTY BY INSURED

The Insured warrants this Policy of Insurance to be free from any claim for loss, damage, or expense covered under any commercial policy in effect for the benefit of the Insured (except any insurance which may be mandated by the Terrorism Risk Insurance Act of 2002), and to be free from any claim for loss, damage, or expense not covered by any policy of insurance whatsoever.

#### XII. FINAL GENERAL PROVISIONS

A. Notwithstanding any other provision of this Policy of Insurance, no errors or omissions in furnishing notification or reports required by this Policy of Insurance shall prejudice the protection afforded by this Policy of Insurance, but shall be corrected by the Insured when such errors or omissions in furnishing notification or reports is discovered.

B. The Administrator authorizes the Insured to enter into indemnity agreements (and this Policy of Insurance will insure) for war risk liability awards under Parts II and III of this Policy of Insurance with vendors, agents and subcontractors whose goods and services are necessary to the operation of aircraft by the Insured. Upon request, the Insured will provide copies any or all such indemnity agreements.

#### XIII. EFFECTIVE DATE AND AUTHORIZED SIGNATURES

The entirety of this War Risk Insurance Policy (including Parts I, II and III below), becomes effective as of 00:00 GMT of the 9th day of February 2004, and unless one or more or Parts are terminated before, shall remain in effect for 205 (two-hundred and five days, until 23:59 GMT on the 31st day of August 2004, or until amended or terminated in accordance with the terms of this Policy of Insurance.

For the UNITED STATES OF AMERICA

By: \_\_\_\_\_  
Title: Director of Aviation Policy and Plans  
Federal Aviation Administration

Date: \_\_\_\_\_

For the INSURED, \_\_\_\_\_  
*Name of Insured Company*

By an Officer of the Insured Empowered to Bind the Insured

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
Policy No. P2-LWR-\_\_\_\_\_

**PART III: THIRD PARTY WAR RISK LIABILITY INSURANCE**

I. COVERAGE

A. The Insurer, represented by the Administrator, acting for the Secretary of Transportation, shall provide by this Policy of Insurance, in accordance with applicable provisions of law and subject to all limitations thereof, and upon the payment of a premium, pursuant to the provisions of chapter 443, Third Party War Risk Liability Insurance (hereinafter, the Insurance) of the type indicated and in the limits shown herein for War Risk Occurrences arising from the Air Transportation Business of \_\_\_\_\_

\_\_\_\_\_ (hereinafter, the Insured, including Other Insured Parties), and, through indemnification agreements entered into by the Insured with its vendors, agents, and subcontractors for goods or services related to the Insured's Air Transportation Business.

B. Subject to the limits of liability, exclusions, conditions, and other terms of this Policy of Insurance, the Insurer hereby agrees to pay on behalf of the Insured all sums which the Insured (including Other Insured Parties) and/or its vendors, agents, and subcontractors whose products and services are required for the operation of its aircraft for which the insured has entered into an indemnity agreement shall be legally liable to pay to any person or persons who are not Passengers or employees who are on active duty in the course of their employment of the Insured, or by final judgment be adjudged to pay to any such person or persons, including damages for personal injuries and/or bodily injuries sustained, including death at any time resulting therefrom, damages for care and loss of services, or by reason of loss or damage to or destruction of property, including the loss of use thereof, resulting from a loss resulting from a War Risk Occurrence arising from the Insured's Air Transportation Business.

II. AMOUNTS

The amount of Insurance provided under this Policy of Insurance shall not exceed \$ \_\_\_\_\_ [*dollar amount equal to the carrier's per occurrence, per aircraft limit of liability in its FAA Third Party War-Risk Insurance Policy. If the carrier is not currently insured by the FAA, the dollar amount equal to twice the per occurrence, per aircraft limit in its commercial liability policy prior to September 11, 2001*] of liability per occurrence, per aircraft incurred by the Insured and/or Additional Insureds for losses resulting from a War Risk Occurrence.

### III. DEFENSE AND SETTLEMENT OF CLAIMS

A. The Insurer shall have the right and duty to defend any suit or claim against the Insured and/or Additional Insureds seeking damages on account of any bodily injury, personal injury, or property damage covered under this Policy of Insurance, even if such suit is groundless, false or fraudulent and may make such investigation, negotiation, and settlement of any claim or suit as it deems proper and expedient, but the Insurer shall not be obligated to pay any claim or judgment or to defend any suit or claim after the applicable limit of the Insurer's liability has been exhausted by payment of judgments or settlements.

B. During such time as the Insurer is obligated to defend a claim or claims under the provisions of the preceding paragraph, the Insurer shall pay with respect to such claims:

1. Subject to the applicable limits of liability, all expenses incurred by the Insured, all costs taxed against the Insured in any suit or claim defended by the Insurer and all interest on the entire amount of any judgment thereon which accrues after entry of the judgment and before the Insurer has paid or tendered or deposited in court that part of the judgment which does not exceed the limit of the Insurer's liability thereon under this Policy; and

2. In addition to the applicable limits of liability, all reasonable expenses incurred by the Insured at the Insurer's request, other than for loss of earnings or for wages or salaries of employees of the Insured.

### IV. PROMPT NOTICE OF LOSS

A. In the event of any War Risk Occurrence which may result in loss, damage, or expense for which the Insurer may become liable, prompt notice thereof, on being known to the Insured or its vendors, agents, or subcontractors, shall be given by the Insured to the Administrator of the Federal Aviation Administration, but failure to give such prompt notice because of War Risk Occurrences or regulations shall not prejudice this insurance.

B. If a claim is made or suit is brought against the Insured, the Insured shall immediately notify the Insurer and timely provide a copy of every demand, notice, summons, pleading, motion, document filed with a court, settlement offer, and other process received by the Insured.

C. Notwithstanding anything in Paragraphs A and B of this Article IV, the failure by an Insured to comply with Paragraphs A and B of this Article IV shall not prejudice this Insurance.

### V. ASSISTANCE AND COOPERATION OF THE INSURED

A. The Insured shall not interfere in any negotiations by the Insurer for settlement of any legal proceedings in respect of any War Risk Occurrence for which the Insurer may be liable under this Policy of Insurance. Provided, that in respect of any War Risk Occurrence likely to give rise to a claim under this Policy of Insurance, the Insured is obligated to, and shall take

such steps to protect its and the Insurer's interests as would reasonably be taken in the absence of this or similar insurance. The Insurer shall consult in good faith, and adequately in advance, with the Insured regarding its proceeding and settlement strategy and proposed settlements, and ensure that it develops in good faith with the Insured and/or Additional Insureds a litigation defense or settlement strategy.

B. Whenever required by the Insurer, the Insured shall aid in securing information and evidence and in obtaining witnesses and shall cooperate with the Insurer in the defense of any claim or suit or in the appeal from any judgment, in respect of any War Risk Occurrence as herein provided.

## VI. ACTION AGAINST THE INSURER

No action shall lie against the Insurer unless, as a condition precedent thereto, the Insured shall have fully complied with all of the terms of this Policy of Insurance and until the amount of the Insured's obligations to pay, with respect to the specific legal action or claim in question, shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the claimant and the Insurer. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy of Insurance to the extent such judgment or written agreement is not in excess of the remaining insurance afforded by this Policy of Insurance. Nothing contained in this Policy of Insurance shall give any person or organization any right to join the Insurer as a co-defendant in any action against the Insured and/or Additional Insureds to determine the liability of the Insured. Neither the filing nor the adjudication of bankruptcy or insolvency of the Insured or the Estate of the Insured shall relieve the Insurer of any of its obligations hereunder.

## VII. SUBROGATION RIGHTS

The Insurer shall be subrogated to all the rights which the Insured may have against any other person or entity, in respect of any payment made under this Policy of Insurance, to the extent of such payment, and the Insured shall, upon the request of the Insurer, execute all documents necessary to secure to the Insurer such rights.

## VIII. PAYMENT OF CLAIMS

A. The Insurer shall make prompt payment in full, on behalf of the Insured and/or Additional Insureds of any claim covered under this Policy of Insurance after the Insured and/or Additional Insureds becomes legally liable to pay, or by final judgment be adjudged to pay. Any subsequent post-incident losses incurred that are directly related to the incident shall be covered by this Policy of Insurance as a loss directly related to the original subject loss incident.

B. The Insurer may at its discretion, and at any time prior to final settlement of any claim by the Insured, elect to make a partial payment to the insured for any loss, damage, or expense covered by this Policy of Insurance.

## IX. PREMIUM PAYMENT

A. The actual premium for this Part III of the Policy of Insurance shall be based upon whether the Insured conducts passenger or air freight operations, or a combination of the two. The premium calculations are set into four Classes based upon the amount of coverage set forth in Article II of this Part III. Class I calculations address Article II coverage amounts that are less than One Billion US Dollars (\$1,000,000,000). Class II calculations address Article II coverage amounts that range from One Billion Dollars (\$1,000,000,000) or more, to less than Two Billion US Dollars (\$2,000,000,000). Class III calculations address Article II coverage amounts that range from Two Billion US Dollars (\$2,000,000,000) or more, but less than Three Billion US Dollars (\$3,000,000,000). Class IV calculations address Article II coverage amounts that range from Three Billion US Dollars (\$3,000,000,000) or more. The premium for each Class shall be calculated as follows:

Class I. If the amount of coverage in Article II amounts to less than One Billion US Dollars (\$1,000,000,000), the total premium shall be calculated as the sum of premiums for passenger and freight operations as set forth below:

### Formulae for Class I

$$\begin{aligned} \text{Premium for Passenger Operations} &= (\$0.03 \times \text{number of enplanements}) \\ &+ (\$0.03 \times \text{RPM}/1000) \end{aligned}$$

$$\text{Premium for Freight Operations} = \$0.17 \times \text{RTM}/1000$$

Class II. If the amount of coverage in Article II amounts to One Billion US Dollars (\$1,000,000,000) or more, but less than Two Billion US Dollars (\$2,000,000,000), the total premium shall be calculated as the sum of premiums for passenger and freight operations as set forth below:

### Formulae for Class II

$$\begin{aligned} \text{Premium for Passenger Operations} &= (\$0.04 \times \text{number of enplanements}) \\ &+ (\$0.04 \times \text{RPM}/1000) \end{aligned}$$

$$\text{Premium for Freight Operations} = \$0.25 \times \text{RTM}/1000$$

Class III. If the amount of coverage in Article II amounts to Two Billion US Dollars (\$2,000,000,000) or more, but less than Three Billion US Dollars (\$3,000,000,000), the total premium shall be calculated as the sum of premiums for passenger and freight operations as set forth below:

### Formulae for Class III

$$\begin{aligned} \text{Premium for Passenger Operations} &= (\$0.05 \times \text{number of enplanements}) \\ &+ (\$0.05 \times \text{RPM}/1000) \end{aligned}$$

$$\text{Premium for Freight Operations} = \$0.30 \times \text{RTM}/1000$$

Class IV. If the amount of coverage in Article II amounts to Three Billion US Dollars (\$3,000,000,000) or more, the total premium shall be calculated as the sum of premiums for passenger and freight operations as set forth below:

Formulae for Class IV

$$\begin{aligned} \text{Premium for Passenger Operations} &= (\$0.05 \times \text{number of enplanements}) \\ &+ (\$0.05 \times \text{RPM}/1000) \end{aligned}$$

$$\text{Premium for Freight Operations} = \$0.33 \times \text{RTM}/1000$$

B. The Insured shall estimate a deposit premium amount for 205-days, and pay to the Insurer within ten (10) days of the first day of the 205-day period of this Policy of Insurance, 50% of the deposit premium amount based on the formulae set forth above. The remaining 50% of the deposit premium will be paid on or before May 19, 2004.

C. Within 90 days of the expiration or termination of this Policy of Insurance, the Insured shall calculate and reconcile the actual premium owed with the deposit premium estimated to determine the premium difference.

1. If the premium difference is greater than the deposit premium paid by the Insured, the Insured shall pay the premium difference to the Insurer.

2. If the premium difference is less than the deposit premium paid by the Insured, the Insured shall seek a refund of the premium difference in the case of termination, or shall seek a refund or request a credit against further policy premiums from the Insurer in the case of an extension of coverage.

**THIS ENDS PART III OF THE POLICY OF INSURANCE**